

The opinion in support of the decision being entered today was not written for publication in a law journal and is not binding precedent of the Board.

Paper No. 16

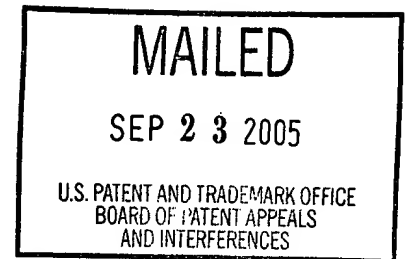
UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte ROBERT A. LAW

Appeal No. 2004-1769
Application No. 09/588,763

ON BRIEF



Before THOMAS, GROSS, and BARRY, ***Administrative Patent Judges.***
GROSS, ***Administrative Patent Judge.***

DECISION ON APPEAL

This is a decision on appeal from the examiner's final rejection of claims 1 through 18, which are all of the claims pending in this application.

Appellant's invention relates to a system and method for using recipient message preferences to improve dissemination of messages. Claim 1 is illustrative of the claimed invention, and it reads as follows:

1. An information delivery system, comprising:

a web server in operative communication with a plurality of recipients and a plurality of senders, the plurality of senders

Appeal No. 2004-1769
Application No. 09/588,763

desirous of generating messages intended for the plurality of recipients, respectively;

and wherein:

the web server includes a plurality of recipient preference profiles corresponding to the plurality of recipients, respectively, and a plurality of sender profiles corresponding to the plurality of senders, respectively;

each of the recipient preference profiles includes respective information directed to the recipient's preferences for receiving messages;

the web server provides the plurality of senders with access to the plurality of recipient preference profiles;

the web server maintains a relationship between a log of recipient preference profiles out of the plurality of recipient preference profiles that have been accessed by a particular sender; and

for each of the recipient preference profiles in the log of recipient preference profiles, the web server provides a change notification to the particular sender of a change in the recipient preference profile.

The prior art reference of record relied upon by the examiner in rejecting the appealed claims is:

Herz et al. (Herz)	5,754,939	May 19, 1998
--------------------	-----------	--------------

Claims 1, 8 through 10, 17, and 18 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Herz.

Claims 2 through 7 and 11 through 16 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Herz.

Appeal No. 2004-1769
Application No. 09/588,763

Reference is made to the Examiner's Answer (Paper No. 14, mailed March 24, 2004) for the examiner's complete reasoning in support of the rejection, and to appellant's Brief (Paper No. 13, filed January 27, 2004) for appellant's arguments thereagainst.

OPINION

We have carefully considered the claims, the applied prior art reference, and the respective positions articulated by appellant and the examiner. As a consequence of our review, we will reverse both the anticipation rejection of claims 1, 8 through 10, 17, and 18 and also the obviousness rejection of claims 2 through 7 and 11 through 16.

Independent claim 1 requires, in pertinent part, "a log of recipient preference profiles . . . that have been accessed by a particular sender," and "for each of the recipient preference profiles in the log . . . the web server provides a change notification to the particular sender of a change in the recipient preference profile." Independent claim 10 includes similar limitations.

The examiner (Answer, pages 4-5) points to column 47, line 66-column 48, line 3, of Herz for a teaching of the claimed log, and to column 48, lines 3-6, for the change notification.

Appeal No. 2004-1769
Application No. 09/588,763

Appellant argues (Brief, pages 7-8) that Herz fails to disclose a log of preference profiles **that a particular sender has accessed** nor sending change data to the relevant senders. We agree with appellant.

The portions of Herz relied upon by the examiner teach recording feedback provided by the user (or recipient) regarding target objects sent by an accessor (or sender). The information recorded is then sent to a proxy server to update the user's target profile interest summary and user profile. Thus, the log does not record which preference profiles that a particular sender has accessed, but rather records feedback from the recipient. Furthermore, although the information sent to the proxy server results in a change in the user's profile, it is not sent to the particular sender. As we find no other teachings in Herz for the claimed log and sending of change data, Herz fails to disclose each and every element of independent claims 1 and 10. Accordingly, we cannot sustain the anticipation rejection of claims 1 and 10, nor of their dependents, claims 8, 9, 17, and 18.

Regarding the obviousness rejection of claims 2 through 7 and 11 through 16, the examiner (Answer, pages 6-8) relies on Official Notice and further portions of Herz for the additional

Appeal No. 2004-1769
Application No. 09/588,763

limitations of these claims. Since Herz lacks any teaching of the claimed log and sending of change data, and the examiner has presented no convincing line of reasoning as to why to modify Herz to include such, we cannot sustain the obviousness rejection of claims 2 through 7 and 11 through 16.

CONCLUSION

The decision of the examiner rejecting claims 1, 8 through 10, 17, and 18 under 35 U.S.C. § 102(b) and claims 2 through 7 and 11 through 16 under 35 U.S.C. § 103 is reversed.

Appeal No. 2004-1769
Application No. 09/588,763

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a)(1)(iv).

REVERSED

JAMES D. THOMAS
Administrative Patent Judge

Anita Pellman Gross
ANITA PELLMAN GROSS
Administrative Patent Judge

BOARD OF PATENT
APPEALS
AND
INTERFERENCES

~~LANCE LEONARD BARRY~~
~~Administrative Patent Judge~~

APG/rwk

Appeal No. 2004-1769
Application No. 09/588,763

PITNEY BOWES INC.
35 WATERVIEW DRIVE
P.O. BOX 3000
MSC 26-22
SHELTON, CT 06484-8000